

General Terms and Conditions of Service and Repairs (Repair Terms)

1. Scope

1. These General Terms and Conditions of Service and Repairs ("Repair Terms") apply to all repair orders and contracts and preliminary work in this regard, such as reviews and cost estimates ("Repairs"), performed by ROTHENBERGER Werkzeuge GmbH, Industriestr. 7, 65779 Kelkheim, Germany ("we" or "us") for our customers ("Customer"). The Repair Terms apply only if the Customer is an entrepreneur (as defined in Sec. 14 of the German Civil Code (BGB)), a legal entity under public law, or a public-law special fund.

2. Repairs performed within the scope of the RO Service+ warranty are additionally subject to the RO Service+ terms of participation, accessible at: <https://rothenberger.com/de-de/rechtliches/>. In the event of any conflict between the RO Service+ terms of participation and these Repair Terms, the provisions of the RO Service+ terms of participation take precedence. The Repair Terms do not apply to cases involving a warranty as provided by law.

3. Unless otherwise agreed, the Repair Terms apply in the version valid at the time of placement of the order by the Customer or, at any rate, in the version most recently communicated to the Customer in text form, as a framework agreement, including for future contracts and agreements of the same nature, without our being required to refer to them again in each individual case.

4. Our Repair Terms apply on an exclusive basis. General terms and conditions of the Customer that deviate herefrom, conflict herewith, or supplement these Repair Terms shall not become elements of the contract unless, and shall do so only to the extent that, we have expressly consented in writing to the application thereof.

5. Individual agreements reached with the Customer in an individual case (including side agreements, addenda, and amendments) take precedence over these Repair Terms. Unless evidence to the contrary is provided, the content of such agreements is governed by a written contract or by our written confirmation, as the case may be.

2. Entry into contract

1. All offers are non-binding and do not constitute offers to enter into a contract, but rather merely for the issuance of a repair order.

2. The Customer is bound by its repair order for a period of four weeks from our receipt of the order. The repair order contract is deemed to have been entered into if we confirm acceptance of the repair order in writing within this time limit or accept the product sent to us for repair by the Customer.

3. Addenda, amendments, and side agreements made orally, by phone, or by fax must be confirmed in writing by the other Party.

4. Where the matter falls under the RO Service+ warranty, the product will be repaired in accordance with the RO Service+ terms of participation.

5. Where the matter does not fall under the RO Service+ warranty, the Customer will receive a chargeable cost estimate from us in text form. By transmitting the cost estimate, we are making a binding offer to the Customer to enter into a repair contract. The offer may provide for both the repair of the product and replacement with a new product. If the Customer accepts the offer we have made in the cost estimate within one week, a repair contract comes into existence, and the product is either repaired or replaced by us accordingly. If the offer is rejected, the processing fee of €39.00 net plus shipping costs remains due and payable and the device will be returned.

6. There is no entitlement to the delivery of a unused device. We are entitled to provide a replacement device in equivalent condition, but not necessarily new.

7. Where the performance of a Repair is agreed in the repair contract, we are entitled to replace the product with a new product at our own discretion and without the Customer's consent. The Customer will not incur any costs for this beyond those agreed in the repair contract.

3. Prices and payment terms

1. Unless otherwise agreed or indicated, prices are EXW (INCOTERMS 2020) in relation to our specific indicated location, not including packaging, freight, postage, customs duties, surcharges, insurance, etc., and plus value-added tax (VAT). These costs will be charged separately.

2. Unless advance payment is agreed, payment for repairs within the EU, EFTA, and UK must be remitted within 30 days after the invoice date, without any deductions, to one of our designated accounts or in accordance with the terms of payment agreed with the customer.

3. Payment for repairs outside the EU, EFTA and the United Kingdom shall be made exclusively in advance, unless different payment terms have been agreed with the customer.

4. If the Customer falls into default of payment, we will charge default interest at the statutory rate at a minimum. Nothing herein shall affect any further claims in the event of delay or default, such as claims against merchants to the interest that applies upon maturity in commercial dealings (Sec. 353 of the German Commercial Code (HGB)).

5. If the Customer falls into default of payment or there are wellfounded doubts regarding the Customer's creditworthiness (including facts that already existed at the time of the Parties' entry into the contract, but of which we were not aware nor should we have been aware), we are entitled to demand advance payment or the provision of security for payments that are still outstanding before further performing the Repair. After a reasonable cure period to provide such security elapses without producing the desired result, we are entitled to rescind the contract, without prejudice to any further statutory rights.

4. Setoff, right of retention

The Customer shall have no right of setoff except where the Customer's counterclaims have been established with final, binding legal force or are undisputed or have been acknowledged by us. The Customer is not authorized to exercise any right of retention except to the extent that the Customer's counterclaim is based on the same contractual relationship.

5. Repair and performance time

1. Binding repair times must be expressly agreed as such in writing. Other indications of delivery times that are not expressly agreed as binding are non-binding or approximate repair time indications, which we will strive to honor, but in whose case noncompliance does not give rise to any claims for compensation on the Customer's part.

2. If events of force majeure (such as acts of war, terrorist attack, natural disaster, nuclear accident), labor disputes, official measures, and other unforeseeable, unavoidable, severe events that do not fall within the respective Party's sphere of risk should arise at our or the Customer's end, the relevant Party shall be released from its obligations of performance for the duration of the disruption and within the scope of the impact thereof. The occurrence of an event of force majeure must be announced to the other Party within three working days. If the impediment persists for longer than three months, the relevant other Party is entitled to rescind the portion of the contract that has not been fulfilled after setting a reasonable cure period. Nothing herein shall affect other rights of termination.

6. Shipping, passage of risk, acceptance

1. The Customer shall ship the product to the address indicated by us at its own expense and own risk after the repair order has been entered into. Products filled with acid must be emptied by the Customer prior to transportation.
2. Tools filled with acid must be emptied by the customer before transport and packed in accordance with the relevant regulations (e.g. UN3457). The necessary measures must be taken to prevent leakage under normal transport conditions.
3. When sending or returning gases or batteries, all legal and official regulations applicable to the transport of goods must be observed, in particular the regulations for the transport of dangerous goods.
4. Return shipment shall take place at the Customer's expense and risk, to the delivery address indicated by the Customer. The Customer is obligated to accept the repair services within one week after the repaired product has been received at the indicated delivery address. If the Customer does not properly accept the repair services within this time limit, acceptance is deemed to have taken place. The same applies in particular if the Customer begins using the repaired product. If the transportation service provider sends the goods back to us, we are entitled to store them at the Customer's expense and risk.
5. The Customer is not entitled to refuse to accept the goods due to trivial defects.

7. Warranty

1. The warranty period for Repairs performed under this repair contract is 6 months from passage of risk. By contrast, the statutory time limit applies to claims arising out of the German Product Liability Act (ProdHaftG) or those due to loss of life, bodily injury, or impairment of health. Parts subject to wear are excluded from the warranty. Except where an individual agreement has been reached, we make no warranty for a particular quality. Under no circumstances does the performance of work under warranty constitute acknowledgment of a defect.
2. For the Customer to have any claims concerning defects, the Customer must have complied with its statutory obligations to examine the goods and complain about any defects therein (e.g., Sec. 377 and 381 HGB). Obvious defects must be reported to us in text form within eight calendar days after delivery; hidden defects must be reported within the same time limit after discovery thereof. If the Customer fails to duly inspect the goods and/or complain about any defects therein, we are not liable for the defect that has not been reported or has not been reported in due time.
3. If the repaired product is defective, we are entitled to choose whether to effect a cure by remedying the defect (remediation) or supplying an item that is free of defects (replacement). The cure does not include either removing the defective item or reinstalling the item if we were not originally obligated to install it. The Customer is required to afford us the time and opportunity to effect the cure owed; in particular, the Customer must turn over the goods regarding which the complaint has been made for the purposes of examination. In the case of replacement, the Customer must return the defective item to us. The limitation period for claims does not begin to run anew after a cure is effected.
4. If it turns out after examination that there is no defect, we are entitled to demand that the Customer compensate us for the costs incurred as a result of the unjustified complaint (particularly costs of examination and transportation) unless it would have been impossible for the Customer to determine that no defect was present.
5. Claims of the Customer for damages or compensation for expenditures made in vain exist only in accordance with Sec. 8 of these Repair Terms, even in the case of defects, and are ruled out in all other cases.
6. The foregoing limitation periods also apply to contractual and extracontractual claims for damages on the part of the Customer based on a defect in the repaired product, except where the application of the standard statutory limitation period (e.g., Sec. 195, 199 BGB) would lead to a shorter limitation period in the individual case.

7. All original parts replaced during the rendering of a service, or warranty, shall become our property, while new parts or parts installed in replacement shall become the customer's property. Service or warranty work shall neither extend nor restart the warranty period.

8. Limitation of liability

1. Claims for damages, irrespective of the legal basis therefor, are ruled out unless we can be held responsible for intent or gross negligence or the matter concerns a more than minor violation of essential contractual obligations (para. 2). Where we are liable for ordinary negligence, our liability is limited to compensation for the foreseeable, typical, and direct damage and/or losses. In particular, compensation for indirect damage and/or losses such as lost profit, production downtime or interruption of use, and financial losses due to claims of third parties is ruled out.
2. "Essential contractual obligations" means those obligations that protect interests of the Customer that are essential to the contract, which the contract must grant to the Customer in keeping with the content and purpose thereof, and those contractual obligations whose fulfillment renders the proper execution of the contract possible in the first place and in compliance with which the Customer generally trusts and is permitted to trust.
3. The foregoing limitations of liability also apply in the case of violations of obligation by or for the benefit of persons or entities for whose fault we are responsible by law. They do not apply where we have maliciously concealed a defect, in the case of warranties provided by way of exception, to claims of the Customer pursuant to the German Product Liability Act, or to claims due to loss of life, bodily injury, or impairment of health.

9. Data protection and privacy

We collect and process personal data exclusively for the purpose of and within the scope of performing the repair order; see point (b) of Article 6(1) of the EU General Data Protection Regulation (GDPR). For further information on how we handle personal data and the rights associated with this, please visit our website at <https://rothenberger.com/qb-en/data-protection>.

10. Applicable law; place of jurisdiction

1. These Repair Terms and the contractual relationship between us and the Customer are subject to the laws of the Federal Republic of Germany, to the exclusion of uniform international laws, particularly the United Nations Convention on Contracts for the International Sale of Goods (CISG) and conflict-of-laws provisions.
2. The sole place of jurisdiction, including internationally, for any and all disputes arising directly or indirectly out of the contractual relationship is the business headquarters mentioned in Sec. 1 hereof. However, we are also entitled in all cases to bring a legal action in the place of performance of the delivery obligation pursuant to these Repair Terms or any individual agreement that takes precedence, as the case may be, or in the Customer's general place of jurisdiction. Nothing herein shall affect any statutory provisions that take precedence, particularly those concerning exclusive jurisdiction.

11. Severability

Should individual provisions of these Repair Terms be or become invalid or null and void, the remaining provisions hereof shall be unaffected thereby. The Parties undertake to replace the invalid provision with a legally valid provision that most closely approximates the economic objective of the original provision.